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WASHINGTON, D.C. 20231  
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#16

MAY 21 2003

In re Application of	:	
Julian D. Warhurst, et al	:	NOTICE OF WITHDRAWAL
Serial No. 09/740624	:	FROM ISSUE
Filed: December 19, 2000	:	UNDER 37 CFR 1.313
For: MICROPLATE COVER ASSEMBLY	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313. (b).

The above-identified application is hereby withdrawn from issue to permit reopening. An office action from the examiner will follow in due course.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jill Warden at (703) 308-4037.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

MoStone

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CC: Allowed Files

# Memorandum

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**To:** Mary C. Lee

**From:** Jill Warden

**Date:** 4/21/03

**Re:** Withdrawal from Issue of 09/740,624

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Please withdraw application serial no. 09/740,624 from issue in order that the examiner may apply a new ground of rejection to claims 1-3 and 11-17, all claims pending. The primary references to be applied are US 5,056,427 and US Pub. 2002/0039545. The references will be applied under 35 USC 103. (See the attached discussion from Examiner Quan ).

The proposed rejection is discussed briefly by the examiner in the attachment.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,056,427 to Sakabe in view of U.S. Publication No. 2002/0039545 to Hall et al.

Referring to claims 1 and 11-17, Sakabe et al. disclose a cover assembly for a microplate (70) (see FIG. 7; COL. 1, lines 5-25). The assembly comprises a layer of material (73), pressure plate (74), and cover (see FIG. 7; COL. 1, lines 5-25). The layer of material (73) is shaped and dimensioned to removably seal a plurality of well openings (71) of the microplate (70) (see FIG. 7; COL. 1, lines 5-25). The pressure plate (74) is disposed on the layer of material (73) for dispersing a compressive force in a generally uniform manner across the layer of material (73) (see FIG. 7; COL. 1, lines 5-25). The cover has a top and first and second sides (see FIG. 7). The top is shaped to generate the compressive force when the cover is engaged with the microplate (70) (see FIG. 7; COL. 1, lines 5-25).

Sakabe et al. do not disclose the first and second sides of the cover each with an inward projection for supporting a bottom edge of the microplate. However, Hall et al. disclose the first and second sides (7) of the cover (1) each with an inward projection (15) for holding the microplate (70) (see FIGS. 5 and 6; SECTION [0032]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover assembly of Sakabe et al. to provide each of the first and

second sides of the cover with an inward projection as in Hall et al. to hold the microplate.

Sakabe et al. do not disclose a plurality of vertical tabs extending downward from the projections and a plurality of recesses in the cover assembly that register with the tabs, such that a plurality of the cover assemblies can be stacked with the vertical tabs of each cover assembly extending down into the recesses of a cover assembly that is disposed beneath. Hall et al. disclose a plurality of vertical tabs (17) extending downward from the projections (15) and a plurality of recesses (13) in the cover assembly (1) that register with the tabs (17), such that a plurality of the cover assemblies (1) can be stacked with the vertical tabs (17) of each cover assembly (1) extending down into the recesses (13) of a cover assembly that is disposed beneath (see FIGS. 14 and 15; SECTION [0032]). The configuration is significant in providing stability and geometric alignment of the stack (see FIGS. 14 and 15; SECTION [0032]). Since covers are normally used in automation based systems, a geometrically constrained stack is important to the pick and place robotic manipulation (see FIGS. 14 and 15; SECTION [0032]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover assembly of Sakabe et al. to provide a plurality of vertical tabs and recesses in which the tabs register with the recesses as in Hall et al. to provide stability and geometric alignment of the stack for easy pick and place robotic manipulation.

Sakabe et al. do not disclose the top of the cover with a central, longitudinally extending portion contacting the pressure plate and lateral portions extending upwardly

from the central portion at their inner edges and sides extending downwardly from the outer edges of the lateral portions, such that the lateral portions and central portion provide a resilient force that bears down on the pressure plate and upward on the bottom edges of the microplate. Hall et al. disclose the top of the cover (3) with a central, longitudinally extending portion (19) contacting the pressure plate (23) and lateral portions (19) extending upwardly from the central portion (19) at their inner edges (see FIGS. 5 and 6). The sides (7) extend downwardly from the outer edges of the lateral portions, such that the lateral and central portions (19) provide a resilient force that bears down on the pressure plate (23) on the bottom edges of the microplate (see FIGS. 3, 5, 6, 9, and 10; SECTIONS [0012] and [0031]). The configuration maintains a compressive force on the pressure plate (23) to effectively seal the microplate (see FIGS. 3, 5, 6, 9, and 10; SECTION [0031]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover assembly of Sakabe et al. to provide the claimed cover configuration as in Hall et al. to maintain a compressive force on the pressure plate to effectively seal the microplate.

Sakabe et al. do not disclose longitudinal tabs extending from the first and second sides, such that the cover may be disengaged from or engaged with the microplate by displacing the longitudinal tabs laterally outwardly or inwardly to move the projections away from or beneath the bottom edges of the microplate. Hall et al. disclose longitudinal tabs with locator holes (11) extending from the first and second sides (7), such that the cover (3) may be disengaged from or engaged with the microplate by displacing the longitudinal tables with locator holes (11) laterally outwardly or inwardly